THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5533 of 2005

ORAL ORDER:

It appears, petitioners are the traders doing business in grains including rice, wheat etc. On 25.10.1999, the vigilance authorities have inspected and pointed out certain irregularities as to variation in the ground stock and initiated proceedings against the petitioners under Section 6-A of the Essential Commodities Act and seized the stock worth about Rs.10,01,740/- against 17 items. After conducting a detailed enquiry, the first respondent-Joint Collector passed order confiscating 30%of the value of the stocks against items 1 to 17. Aggrieved by the same, petitioners carried the matter in appeal under Section 6(c) before the Appellate Authority-cum-Principal District Judge, West Godavari at Eluru. However, on appreciation of entire evidence on record, the Appellate Authority found that absolutely there is no variation against items 1 to 8 and 15 to 17 and confirmed the order of confiscating 30% of the value of the goods against items 9 to 14 by dismissing the appeal. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that absolutely there is no charge whatsoever framed against the petitioners, which can be taken seriously. The purported charge is general and vague in nature and there is no specific allegation made against the petitioner. Therefore, the orders passed by the first respondent as well as the Appellate Authority-cum-Principal District Judge are liable to be set aside.

On the other hand, the learned Government Pleader appearing for respondents contended that items 1 to 8 and 15 to 17 were already taken out of the orders passed by the first respondent and the appellate authority has rightly dismissed the appeal filed by the petitioner against items 9 to 14. Since the authorities have made out the variation of stocks

against items 9 to 14, no interference is called for by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

I am of the opinion that though wild allegations of diverting the stocks were made, there is no evidence to show that the petitioner involved in clandestine business of diverting the stocks to black-market etc. Further, the variation against items 9 to 14, when compared to the opening balance and book balance at the time of inspection, is very negligible and such variations are not unusual in the normal course of business in the rice mill. Further, it appears, the Vigilance inspection had taken place during the course of the day when the stocks are being received, which was not entered in the stocks register. However, both the authorities below held that the petitioners are liable for punishment of confiscation of 30% of the stocks against items 9 to 14. I am of the opinion that in view of the trivial charges, assuming the same are proved, they do not require severe punishment of confiscating 30% of the value of the goods.

In the facts and circumstances of the case, I am of the opinion that 15% of confiscation of value of goods against items 9 to 14 would be reasonable. Therefore, the order confiscating 30% of the value of the goods is modified to be read as confiscation of 15% of the value of the goods in respect of items 9 to 14.

With the above modification, the writ petition is disposed of. The respondents are directed to return the bank guarantees to the petitioners after retaining 15% of the value of the goods against items 9 to 14 within a period of three weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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C.V.RAMULU, J

Date: 11.12.2006

Note:
Issue C.C. in one week.
B/o
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

11.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5533 of 2005

Date: 11th December, 2006

Between:

Javadi Seetha Ramaiah & another.

.. Petitioners

And

The Joint Collector,
West Godavari, Eluru & another.

.. Respondents